

## § 35.9050

organization, resources, and procedures.

(b) *Conditional approval.* The Regional Administrator may conditionally approve the application after consulting with the applicant if only minor changes are required. The award will include the conditions the applicant must meet to secure final approval and the date by which those conditions must be met.

(c) *Disapproval.* If the application cannot be approved or conditionally approved, the Regional Administrator will negotiate with the applicant to change the output commitments, reduce the assistance amount, or make any other changes necessary for approval. If negotiation fails, the Regional Administrator will disapprove the application in writing.

## § 35.9050 Assistance amount.

(a) *Determining the assistance amount.* In determining the amount of assistance to an applicant, the Regional Administrator will consider the Management Conference planning target, the extent to which the applicant's Work Program is consistent with EPA guidance, and the anticipated cost of the applicant's program relative to the proposed outputs.

(b) *Reduction of assistance amount.* If the Regional Administrator determines that the proposed outputs do not justify the level of funding requested, he will reduce the assistance amount. If the evaluation indicates that the proposed outputs are not consistent with the priorities contained in EPA guidance, the Regional Administrator may reduce the assistance amount.

## § 35.9055 Evaluation of recipient performance.

The Regional Administrator will oversee each recipient's performance under an assistance agreement. In consultation with the applicant, the Regional Administrator will develop a process for evaluating the recipient's performance. The Regional Administrator will include the schedule for evaluation in the assistance agreement and will evaluate recipient performance and progress toward completing the outputs in the approved work program according to the schedule. The

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Regional Administrator will provide the evaluation findings to the recipient and will include these findings in the official assistance file. If the evaluation reveals that the recipient is not achieving one or more of the conditions of the assistance agreement, the Regional Administrator will attempt to resolve the situation through negotiation. If agreement is not reached, the Regional Administrator may impose sanctions under the applicable provisions of 40 CFR part 30 or 31.

## § 35.9060 Maximum Federal share.

The Regional Administrator may provide up to 100 percent of the approved work program costs for a particular application provided that non-Federal sources provide at least 25 percent of the aggregate costs of research, surveys, studies, modeling, and other technical work necessary for the development of a comprehensive conservation and management plan for the estuary as specified in the estuary Annual Work Plan for each fiscal year.

## § 35.9065 Limitations.

(a) *Management conferences.* The Regional Administrator will not award funds pursuant to CWA section 320(g) to any applicant unless and until the scope of work and overall budget have been approved by the Management Conference of the estuary for which the work is proposed.

(b) *Elements of annual workplans.* Annual Work Plans to be prepared by estuary Management Conferences must be reviewed by the Regional Administrator before final ratification by the Management Conference and must include the following elements:

(1) *Introduction.* A discussion of achievements in the estuary, a summary of activities undertaken in the past year to further each of the seven purposes of a Management Conference specified in section 320(b) of the CWA, the major emphases for activity in the upcoming year, and a schedule of milestones to be reached during the year.

(2) *Funding sources.* A table of fund sources for activities in the new year, including a description of the sources and types (e.g., in-kind contributions to be performed by the applicant) of funds comprising the contribution by

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applicants or third parties, and the source and type of any other non-Federal funds or contributions.

(3) *Projects.* A description of each project to be undertaken, a summary table of project status listing all activities, the responsible organization or individual, the products expected from each project, approximate schedules, budgets, and the source and type of the non-Federal 25 percent minimum cost share of the aggregate costs of research, surveys, studies, modeling, and other technical work necessary for the development of a comprehensive conservation and management plan for an estuary.

[54 FR 40804, Oct. 3, 1989, as amended at 59 FR 61126, Nov. 29, 1994]

### § 35.9070 National program assistance agreements.

The Assistant Administrator for Water may approve the award of NEP funds for work that has broad applicability to estuaries of national significance. These awards shall be deemed to be consistent with Annual Work Plans and Five-Year State/EPA Conference Agreements approved by individual management conferences. The amount of a national program award shall not exceed 75 percent of the approved work program costs provided the non-Federal share of such costs is provided from non-Federal sources.

### Subpart Q—General Assistance Grants to Indian Tribes

SOURCE: 58 FR 63878, Dec. 2, 1993, unless otherwise noted.

#### § 35.10000 Authority.

This subpart is issued under the Indian Environmental General Assistance Program Act of 1992 ("the Act"), 42 U.S.C. 4368b.

#### § 35.10005 Purpose and scope.

(a) This subpart codifies requirements for administering general assistance grants to Indian tribal governments and intertribal consortia to build capacity to administer environmental regulatory programs on Indian lands.

(b) 40 CFR part 31, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," establishes consistency and uniformity among Federal agencies in the administration of grants and cooperative agreements to State, local, and Indian Tribal governments. This subpart supplements the requirements contained in 40 CFR part 31, including its provisions for accounting, auditing, evaluating, and reviewing any programs or activities funded in whole or in part by an EPA grant.

#### § 35.10010 Definitions.

(a) *Indian tribal government.* Any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601, *et seq.*)), which is recognized by the United States Department of the Interior as eligible for the special services provided by the United States to Indians because of their status as Indians.

(b) *Intertribal Consortia or Intertribal Consortium.* A partnership between two or more Indian tribal governments authorized by the governing bodies of those tribes to apply for and receive assistance under this program.

(c) *General assistance.* Financial assistance provided under this program to Indian tribal governments or to an intertribal consortia or consortium to cover the costs of planning, developing, and establishing the capability to implement environmental protection programs on Indian lands. General assistance may be provided through either a grant or a cooperative agreement in accordance with the Federal Grant and Cooperative Agreement Act, 31 U.S.C. 6301 *et seq.*

#### § 35.10015 Eligible recipients.

The following entities are eligible to receive financial assistance under this program:

- (a) An Indian tribal government.
- (b) An intertribal consortium or consortia.